

STEIN, J

Flemming Zulack Williamson Zauderer LLP  
 One Liberty Plaza  
 New York, New York 10006  
 (212) 412-9500  
 Dean R. Nicyper, Esq. (DRN-7757)

Attorneys for Plaintiff Earl Davis

UNITED STATES DISTRICT COURT  
 SOUTHERN DISTRICT OF NEW YORK

----- X  
 EARL DAVIS,

Plaintiff,

-against-

SALANDER O'REILLY GALLERIES LLC  
 f/k/a SALANDER O'REILLY GALLERIES INC.,  
 and LAWRENCE B. SALANDER

Defendants.  
 ----- X

**MEMO ENDORSED**

*As Amended*

U.S. DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK
DOCUMENT ELECTRONICALLY FILED
DATE FILED: 6/29/07 (19)

Case No. 07-CV-4165 (SHS) (DF)

**ORDER TO SHOW CAUSE  
 FOR PRELIMINARY  
 INJUNCTION AND  
 EXPEDITED DISCOVERY**

Upon the annexed Declaration of Earl Davis, sworn to June 27, 2007, the exhibits annexed thereto, the Declaration of Dean R. Nicyper, sworn to June 27, 2007, the exhibits annexed thereto, the Memorandum of Law in Support of Plaintiff's Motion for Preliminary Injunction and Expedited Discovery, and upon all prior pleadings and proceedings had herein, it is hereby

ORDERED that Defendants Salander O'Reilly Galleries LLC (f/k/a Salander O'Reilly Galleries Inc.) ("SOR" or the "Gallery") and Lawrence B. Salander ("Salander") (SOR and Salander are referred to herein collectively as "Defendants") show cause in Courtroom 14D of the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, New York, on July 11, 2007, at 3:30 o'clock p.m., or as soon thereafter as counsel may be heard, why an order should not be entered, pursuant to Rules 26(d) and 65 of the Federal Rules of Civil Procedure preliminarily:

(A) enjoining, restraining and prohibiting Defendants SOR and Salander, and all persons acting for, on behalf of or for the account of either of said Defendants, pending the determination of this action, from:

(i) selling, lending, leasing, consigning, encumbering, assigning or pledging as collateral, or transferring or attempting to transfer, to any person or entity other than to the plaintiff herein or as this Court may otherwise direct, possession of or any interest in any of the Stuart Davis works of art Defendants received from Plaintiff, which are identified in Schedule A hereto (the "Works"); and

(ii) using any proceeds from sales of any of the Works for Defendants' own purposes;

(B) mandating Defendants SOR and Salander to:

(i) collect and retrieve all Works that have not yet been sold from those persons or entities to which Defendants consigned, pledged, loaned or transferred such unsold Works, and deliver such unsold Works to Plaintiff;

(ii) place in a separate bank account, segregated from all of Defendants' other moneys, and deliver to Plaintiff, all proceeds from any and all of sales to date of the Works; and

(iii) place in the same separate bank account, segregated from all of Defendants' other moneys, and deliver to Plaintiff all installments that Defendants receive, upon such receipt, from this date forward as one or more payments for Works sold prior to this date; and

(C) granting Plaintiff's request for discovery pursuant to Fed. R. Civ. P. Rules 26, 30, 33, 34 and 45 on an expedited basis; and

(D) granting such other and further relief as the Court deems proper; and it is further

ORDERED that Plaintiff shall ~~immediately serve~~ <sup>discuss with Judge Stein</sup> their First Request For The RMB  
Production of Documents to Defendant Salander-O'Reilly Galleries LLC ("Document Request"),  
requesting documents as set forth in Plaintiff's proposed Document Request, a copy of which is  
attached to the Declaration of Dean R. Nicyper ("Nicyper Declaration"); that Defendant SOR  
shall ~~serve~~ <sup>discuss with Judge Stein</sup> responses and ~~produce documents pursuant~~ to Plaintiff's Document Request at least RMB  
~~two days prior to the preliminary injunction hearing~~; and that Plaintiff ~~may serve~~ <sup>shall discuss with Judge Stein</sup> subpoenas RMB  
duces tecum on those art galleries and dealers to which Defendants sent any of Plaintiff's Works,  
requesting documents as set forth in Plaintiff's proposed subpoena, a copy of which is attached  
to the Nicyper Declaration; and

ORDERED, that service of a copy of this Order, together with the papers upon  
which it is made, by hand delivery upon David E. Mollon, Winston & Strawn LLP, 200 Park  
Avenue, New York, New York 10166-4193, counsel for Defendants, on or before July 2, 2007,  
shall be deemed good and sufficient service; and it is further

ORDERED, that opposition papers, if any, shall be served by hand  
delivery upon Dean R. Nicyper, Flemming Zulack Williamson Zauderer LLP, One Liberty Plaza,  
New York, New York 10006 at or before 5:00 p.m. on July 6, 2007 and reply papers, if any, so  
as to be received by counsel for Defendants at or before 3 p.m. on July 9, 2007. RMB

✓ Dated: New York, New York

June ~~July~~ 29, 2007

*Richard M. Berman*

United States District Judge

*Part I*

*3*